

Railroad Company, Duty of to Furnish Proper Shipping Facilities. Railroad Commission, Power of to Order Proper Transportation Facilities.

The railroad commission has power to order railroad companies to furnish cars properly equipped so that they may be loaded to their capacity for transporting goods and merchandise.

Helena, Montana, October 4, 1909.

Railroad Commission of Montana,

Helena, Montana.

Gentlemen:

I am in receipt of your letter of September 29, 1909, wherein you ask my opinion as to whether or not it is the duty of railroad companies to furnish, when demanded, suitable equipped cars for the transportation of coal, together with the statement that grain doors are necessary in order to load cars to their full capacity with coal.

Section 4373, revised codes, provides that the provisions of the act

creating your commission apply to the transportation of property between points in this state, and the term transportation, as defined by that section, includes all instrumentalities of shipment or carriage and to the receiving, switching, delivering, storage and handling of property.

I would say that it is, therefore, within your province to issue an order that where cars are requested for the purpose of loading coal, that these cars be equipped with grain doors, if that is necessary in order to load these cars to the maximum capacity.

It seems that this is an expense which should properly be borne by the railroad company, under their obligation to supply properly equipped facilities for transportation.

As heretofore advised by this department, general orders made by your commission should be made only after notice to the railroad companies and a hearing had upon the subject. However, the matter submitted herein seems to be so plain that I believe an order to the railroad companies to this effect would be followed without question as to procedure.

Very truly yours,

ALBERT J. GALEN,

Attorney General.